

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**IN RE: ZOFRAN (ONDANSETRON)
PRODUCTS LIABILITY LITIGATION**

MDL No. 1:15-md-2657-FDS

Case No. 1:19-cv-12249

This Document Relates To:

Dehab Akil, Individually, and as Parent and Legal
Guardian of S.A., her Minor Child

PLAINTIFFS,

**SHORT FORM COMPLAINT
AND JURY DEMAND
BRAND ZOFRAN® USE**

v.

GlaxoSmithKline, LLC

DEFENDANTS.

**MASTER SHORT FORM COMPLAINT AND JURY DEMAND
BRAND ZOFRAN® USE**

Plaintiffs incorporate by reference Plaintiffs' Brand Long Form Master Complaint and Jury Demand filed in *In Re Zofran® Products Liability Litigation* in the United States District Court for the District of Massachusetts, filed as No. 255 on the Master Docket. Pursuant to Case Management Order No.14, the following Brand Short Form Complaint encompasses Plaintiffs' claims as adopted from the Brand Master Long Form Complaint in the above-captioned action.

Plaintiffs select and indicate by checking boxes where requested, parties and claims specific to this case. As necessary, Plaintiffs include: (a) additional claims against the Defendant(s) listed in paragraph 1, which are set forth in paragraph 12, and the supporting facts for which are alleged in paragraph 13 or on an additional sheet attached to this Complaint, and/or

(b) claims pleaded against additional defendants not listed in the Brand Long Form Master Complaint, which are set forth in paragraph 14 and the supporting facts for which are alleged in paragraph 14 or on an additional sheet attached to this Complaint.

Plaintiffs, by and through counsel, allege as follows:

I. DEFENDANTS

1. Plaintiffs name the following Defendants in this action **[check only those that apply]**:

☒ **GLAXOSMITHKLINE LLC**

☐ **NOVARTIS PHARMACEUTICALS CORPORATION (FOR CLAIMS ARISING FROM ZOFRAN® INGESTION ON OR AFTER MARCH 23, 2015)**

II. PLAINTIFFS

2. Plaintiffs are bringing these claims:

☒ **Individually and on behalf of the minor child; or**

☐ **On behalf of the minor child only**

due to injuries caused by prenatal exposure to brand Zofran®, as described in greater detail below.

3. Plaintiff, Dehab Akil, is the **[check all that apply]**:

☒ biological mother

☐ biological father

☐ legal guardian

☐ personal representative of the Estate

of minor child S.A., (initials only) and is an individual who is domiciled at 7086 La Casa Drive, Bartlett, Shelby County, TN 38133.

4. Plaintiff, _____, is the **[check all that apply]**:

- ☐ biological mother
- ☐ biological father
- ☐ legal guardian
- ☐ personal representative of the Estate

of minor child S.A., (initials only) and is an individual who is domiciled at 7086 La Casa Drive, Bartlett, Shelby County, TN 38133.

5. Minor child S.A. (initials only) was born in 2009 (year only) in Tennessee (state of birth).

III. ZOFRAN® INGESTION

6. Mother of minor child ingested Zofran® during pregnancy with minor child during the following trimester(s) **[check all that apply]**:

- ☒ 1ST TRIMESTER
- ☒ 2ND TRIMESTER
- ☐ 3RD TRIMESTER

IV. PRODUCT IDENTIFICATION

7. Plaintiffs allege use of the following form(s) of administration of Zofran® **[check all that apply]**:

- ☒ ORAL TABLETS
- ☐ ORALLY DISINTEGRATING TABLET
- ☐ INJECTABLE OR I.V. SOLUTION
- ☐ ORAL SOLUTION
- ☐ OTHER: _____

8. Plaintiffs allege that Zofran® was ingested in the following state(s):

Tennessee.

9. [Complete only for Complaints directly filed in the MDL Court.] Identify the U.S. federal district court and if applicable, the division, in which Plaintiff would have filed in the absence of an MDL: U.S. District Court for the Western District of Tennessee

V. PHYSICAL INJURY

10. Minor child alleges the following injury(ies) as a result of prenatal exposure to

Zofran® [specify all that apply]:

S.A. was born an atrial septal defect ("ASD"), pulmonary stenosis and pulmonary artery injuries. S.A. required medical treatment, including multiple tests and diagnostic imaging, surgery, and other procedures to treat S.A.'s congenital heart defects. S.A. will require future medical treatment and monitoring to treat S.A.'s birth defects. S.A. is entitled to past and future economic and non-economic damages including, but not limited to, expenses, lost earnings and earning capacity, disfigurement, physical and emotional pain and suffering, loss of enjoyment of life, emotional distress and other economic or non-economic damages available to S.A. under the prevailing law.

11. Plaintiffs allege the following injury(ies) to themselves as a result of minor child's

prenatal exposure to Zofran® [specify all that apply]:

Plaintiffs Dehab Akil has been deprived of the society, love, affection, companionship, earnings, care and services of her child, S.A., and is entitled to recovery for said loss. Plaintiff has sustained severe emotional distress and suffering as a result of GSK's wrongful conduct and the injuries to her child. Plaintiff has suffered permanent harm including severe and continuing pain and suffering, mental anguish, and diminished enjoyment of life. S.A. suffers from birth defects that are severe and will require future medical monitoring and treatment. S.A. will require more future medical monitoring and treatment than if S.A. had not been exposed to Zofran.

Plaintiff is entitled to the reasonable value of the Plaintiff's care or nursing care both in the past and in the future which is rendered by Plaintiff or others to S.A. as a result of S.A.'s injuries. Plaintiff has suffered economic injury such as past and future expenses for medical care, nursing care, health, incidental and related expenses, and other economic and non-economic damages that are ongoing.

VI. CLAIMS/COUNTS

12. The following claims asserted in the Brand Master Long Form Complaint, and the allegations with regard thereto in the Brand Master Long Form Complaint, are adopted in this Short Form Complaint by reference:

Check if Applicable	Count Number	Claims
<input checked="" type="checkbox"/>	I	Negligence
<input checked="" type="checkbox"/>	II	Negligent Misrepresentation
<input checked="" type="checkbox"/>	III	Negligent Undertaking
<input checked="" type="checkbox"/>	IV	Negligence Per Se
<input checked="" type="checkbox"/>	V	Failure to Warn – Strict Liability
<input checked="" type="checkbox"/>	VI	Breach of Express Warranty
<input checked="" type="checkbox"/>	VII	Breach of Implied Warranties
<input checked="" type="checkbox"/>	VIII	Fraudulent Misrepresentation and Concealment
<input checked="" type="checkbox"/>	IX	Violations of Consumer Protection Laws <u>[Specify the laws allegedly violated:]</u> Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101, <i>et seq.</i>
<input type="checkbox"/>	X	Wrongful Death
<input type="checkbox"/>	XI	Survival Action
<input checked="" type="checkbox"/>	XII	Loss of Consortium
<input checked="" type="checkbox"/>	XIII	Punitive Damages
<input type="checkbox"/>	XIV	Other(s): <u>[Specify]</u>

13. If additional claims against the Defendants identified in the Brand Master Long Form Complaint are alleged in paragraph 12, the facts supporting these allegations must be pleaded. Plaintiffs assert the following factual allegations against the Defendants identified in the Brand Master Long Form Complaint:

14. Plaintiffs assert the following additional claims and factual allegations against other Defendants (must name defendant and its alleged citizenship):

WHEREFORE, Plaintiffs pray for relief as set forth in the Plaintiffs' Brand Master Long Form Complaint in *In Re Zofran® Products Liability Litigation* in the United States District Court for the District of Massachusetts.

Dated: 11/1/2019

/s/ Robert K. Jenner

Attorney for Plaintiffs

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